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No. 9

Legislative Notice

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S. 495 – Chemical and Biological Weapons Threat Reduction Act of 1997

S. 495 was referred to the Judiciary Committee on March 20, 1997. It is anticipated that by unanimous consent, the bill will be discharged from the Judiciary Committee today.

NOTEWORTHY

- The Senate is expected to take up the Chemical and Biological Weapons Threat Reduction Act of 1997 today. While no unanimous consent agreement existed at press time, it is expected that the bill will be considered under a u.c. that will limit amendments to one — a manager's substitute — with two hours of debate, and the time equally divided, to be followed by a vote.
- This *Notice* is based on a copy of the manager's substitute amendment that was available at press time.
- S. 495 was introduced on March 20, 1997, by Senator Kyl, Majority Leader Lott and Assistant Majority Leader Nickles.
- This Republican leadership bill requires implementation of a comprehensive domestic and international plan to reduce the threat of chemical weapons (CW) and biological weapons (BW) use. This bill for the first time provides comprehensive criminal, civil and other penalties for the acquisition, possession, transfer or use of chemical or biological weapons. No such statute currently exists.
- The act reaffirms support for elimination of the U.S. chemical weapons stockpile, requires the President to sanction countries that use these weapons, and establishes the need for improved international enforcement mechanisms. Further, the bill applies the same approach used in the FY 1996 National Defense Authorization Act as it applies to U.S. assistance to Russia on CW/BW.
- The Senate may begin debate on the Chemical Weapons Convention next week.

HIGHLIGHTS

- **Outlaws the Entire Range of CW and BW Activities Within the United States:** The bill sets out civil and criminal penalties for the acquisition, possession, transfer or use of Chemical Weapons (CW) and Biological Weapons (BW). The bill mandates a \$100,000 penalty for civil violations, and provides the death penalty where violations of the Act lead to the loss of life. In addition, under this provision, export privileges can be revoked.
- **Requires U.S. Sanctions Against Any Country that Uses CW/BW:** A range of sanctions that can be imposed by the United States against a country that uses CW or BW against another country, or against its own nationals, includes: termination of foreign assistance, arms sales, arms sales financing, or U.S. multilateral trade credits; trade restrictions; suspension of aviation rights; and suspension of diplomatic relations. In addition, the U.S. Government can freeze such country's assets for future compensation to victims of CW and BW use.
- **Calls for Adding "Teeth" to the 1925 Geneva Protocol Banning CW Use:** The bill sets out a U.S. policy to seek effective international enforcement mechanisms to existing multilateral CW and BW agreements, and directs the Secretary of State to work to convene an international negotiating forum for the purpose of concluding an international agreement on the enforcement of the 1925 Geneva Protocol prohibiting the use of poison gas in war. Multilateral sanctions would complement and reinforce U.S. sanctions policy.
- **Conditions U.S. Funding to the Treaty's Implementing Organization:** U.S. funding for the Organization for the Prohibition of Chemical Weapons (OPCW) is on the condition that the treaty enters into force in the United States.
- **Enhances Multilateral Regimes that Control CW- and BW-Related Trade:** The bill sets out U.S. policy to maintain and strengthen existing national and multinational restrictions on chemical and biological trade. The legislation includes a sense of Senate provision expressing the view that the collapse or weakening of the existing informal "Australia Group" controls would seriously undermine international and national efforts to limit CW and BW proliferation.
- **Requires Continuing Enhancements to U.S. Chemical and Biological Defenses:** A sense of Congress provision is included expressing the view that U.S. forces are inadequately equipped, organized, trained and exercised for operations on CW and BW battlefields. The bill calls on the Secretary of Defense to take the steps necessary to ensure U.S. forces can fight and win in regional conflicts involving CW or BW use. Furthermore, the legislation directs the Secretaries of Defense and State to place a high priority on discussions with key allies to ensure their forces' preparedness for operations in CW- and BW-contaminated environments.

- **Requires a Review of U.S. "Negative Security Assurance" Policy:** The bill includes a sense of Congress provision that the President should re-evaluate current U.S. deterrence policy that would prohibit a nuclear response to a chemical attack by a non-nuclear weapons state (for example, Libya).
- **Establishes U.S. Policy on Riot Control Agents (RCAs):** The bill maintains the policy established by President Ford to permit the use of RCAs for, among other things, the rescue of downed pilots and situations where combatants and non-combatants are intermingled.
- **Calls For Several Presidential Reports:** The legislation mandates an annual, classified Presidential Report on proliferation-related activities of countries of concern, foreign persons and third countries assisting CW and BW programs, and on sub-national groups. It also requires an annual report to Congress on progress made in correcting identified deficiencies and improving CW/BW defense preparedness of U.S. armed forces. In addition, within 180 days of enactment of this legislation, the President is to forward a report on the "Negative Security Assurance" policy of the United States.

BACKGROUND

Bill sponsors provide the following talking points on the need for this legislation:

- **S. 495 Bolsters U.S. International Leadership on Chemical Weapons, Whether or Not the U.S. Ratifies the Chemical Weapons Convention.**
This legislation demonstrates our firm commitment to destroy U.S. chemical weapons stocks, setting the example for other countries to follow suit. In addition, the bill underscores U.S. engagement in global nonproliferation efforts. And, the bill highlights our commitment to reinforce existing international norms against chemical weapons.
- **S. 495 Provides a Comprehensive U.S. Plan Addressing CW/BW.**
This legislation is unique because it sets out stiff criminal and civil penalties for the entire spectrum of chemical and biological weapons activities, including the acquisition, possession, transfer or use of CW and BW. For example, with regard to chemical weapons, existing law simply outlaws the "use of" or "conspiracy to use" these weapons.
- **S. 495 Reinforces Deterrence Against CW/BW Use.**
Strong controls on CW and BW trade make it more difficult and raise the costs for rogue nations to acquire CW/BW. Robust U.S. and allied CW/BW defenses devalue the political and military utility of CW/BW by our opponents. Requiring the imposition of sanctions against any country that uses poison gas against another country or its own nationals could reduce the chance such weapons would be used in the first place.

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